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HB 3954

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

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HB 3954 would add a new chapter to the Hawaii Revised Statutes to provide a mechanism for evaluating and certifying as qualified individuals engaged in preparation of Environmental Impact Statements (EISs).

Our statement on this bill does not represent an institutional position of the University of Hawaii.

In over twenty years of reviewing EISs, the Center has encountered issues of subjectivity and project advocacy to varying degrees in the documents we examine. However, it is difficult, and probably inappropriate to attempt to regulate comprehensiveness in the preparation of a disclosure document when the breadth and diversity of issues which these documents must confront varies substantially with each separate project. The determination of what information is relevant to a full disclosure of a projects impacts is frequently subjective, and is best arrived at through a process of scoping which directly involves parties representing all sides of issues which are perceived to be relevant. Such a process is recommended in our recent study on the EIS system.

Ultimately, it is the responsibility of the proposing or accepting agencies to ensure compliance with quality standards for environmental documentation established in the EIS rules. The public review process provides the opportunity for agencies to receive critical commentary on each document. If that commentary indicates a problem of insufficiency or unwarranted advocacy, the agency has the responsibility to insure that these problems are remedied prior to acceptance of the document. Thus, one undesirable effect of this bill would be to shift the responsibility for enforcement of quality standards from the respective agencies to one agency, the department of commerce and consumer affairs, which presently has little exposure to and minimal experience with environmental management.

Another problem is that if, as is occasionally the case, agencies prepare their own EISs, would they be subject to licensing? The prospect of

one agency dictating performance standards for another is not one that tends to be viewed with much enthusiasm within government circles.

We suggest that regulation of the consulting industry is a useful stick to be held in abeyance. However, the industry should first be given the opportunity to regulate itself. Recently, the Hawaii Association of Environmental Professionals (HAEP), a chapter of the National Association of Environmental Professionals, was chartered locally. At the organizational meetings preceding the establishment of the local chapter, the predominant rationale expressed by representatives of a broad cross section of the environmental management community was that self regulation was of paramount importance.

Finally, we note that quality assurance in environmental documentation will not in itself assure a solution to environmental management problems. Some mechanism of follow up to ensure implementation of mitigative measures proposed in the EIS, and to evaluate the efficacy of those prescribed measures, is needed. Ideally, there should be some legal basis to emphasize that mitigation is not discretionary but is enforceable by the public in a court of law.

Pursuant to the arguments stated above, we do not concur with the measures proposed in this legislation.